

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri M.Gopala Krishna Murthy, S/o M.Narayana, Ex-Serviceman, Mechanic 'B'(R/R), Hindustan Aeronautic Ltd., Hyderabad Division, Balanagar, Hyderabad, under Section 7(2) of the Act 16 of 1993, against the orders of the District Collector, Hyderabad issued in Proceedings No.C1/4220/2015, dated 24.04.2017 – Appeal Dismissed - Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 20

Dated: 19-06-2023

Read the following:-

1. Proceedings No.C1/4220/2015, dated 24.04.2017 of the Collector & District Magistrate, Hyderabad District.
2. Appeal Petition filed by Sri M.Gopala Krishna Murthy, S/o M.Narayana, Mechanic 'B'(R/R), Hindustan Aeronautic Ltd., Hyderabad Division, Balanagar, Hyderabad, dated 23.05.2017.
3. Govt. Memo.No.4041/LTR-2/2017, dated 11.10.2017.
4. From the District Collector, Hyderabad, letter No.C1/DLSC/4220/ 2015, dated 18.03.2021.
5. Govt. Notice No.4041/LTR-2/2017, dated 23.06.2021 and 08.07.2021.

ORDER:-

1. In the reference 1st read above, the Collector & District Magistrate, Hyderabad in his Proceedings No.C1/4220/2015, dated 24.04.2017 had cancelled the ST Valmiki Caste Certificate of the Appellant Sri M.Gopala Krishna Murthy, S/o M.Narayana, Mechanic 'B'(R/R), Hindustan Aeronautic Ltd., Hyderabad Division, Balanagar, Hyderabad, issued by the Tahsildar, Secunderabad Taluq, Hyderabad District dated 27.10.1984. The gist of the cancellation orders is as follows:

- The Deputy General Manager (HR), Hindustan Aeronautic Ltd., Hyderabad has reported vide Lr.No.HAL/HD/4519/E/ LC/15, dated 8.12.2015 had informed that Sri M.Gopala Krishna Murthy S/o Mesa Narayana joined their organization on 13.10.1984 and submitted caste certificate dated 27.10.1984 issued by the then Mandal Revenue Officer, Secunderabad Mandal claiming that he belongs to ST (Valmiki) community. As per their rules, said certificate was enquired by the Director, Tribal Welfare wherein it was reported that Sri Mesa Narayana, father of M.Gopala Krishna Murthy was a native of Chittoor District and clarified that under the SC & STs Modification Order, 1956, his father belongs to Valmiki Caste of Chittoor District which was declared as a BC-A group but not ST. Further, they directed the Hindustan Aeronautic Ltd., authorities to obtain second opinion on the same matter and once again referred to the Commissioner, Tribal Welfare for re-verification. The Commissioner vide letter dated 30.08.1997 had reported the Hindustan Aeronautic Ltd., authorities that the Government Andhra Pradesh has formulated rules under Act 16 of 1993 to regulate the issue of community certificates and requested the management to refer the matter to the District Collector concerned to conduct enquiry. Accordingly, they had requested the District Collector, Hyderabad to conduct enquiry in DLSC regarding genuineness of the caste certificate issued to Sri M.Gopala Krishna Murthy.
- DLSC had taken up enquiry and conducted hearings on 29.04.2016, 13.05.2016, 23.05.2016, 26.05.2016, 04.06.2016 & 10.06.2016.
- Sri M.Gopala Krishna Murthy and his counsel were present and submitted copies of documents in support of his claim.
 1. Transfer Certificate.
 2. Caste Certificate issued by the Mandal Revenue Officer, Secunderabad Mandal, dated 27.10.1984.

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3. Caste Certificate of Sri M.Naryana S/o M.Gopala Krishna Murthy issued by Mandal Revenue Officer, Secunderabad Mandal on 14.11.1996.
 4. Copy of GO Ms.No.1520, Education Department, dated 2.8.1968.
 5. Copy of Proceedings of the Collector, Ananthapur issued vide Rc.No.1747/94/C5, dated 10.09.1997
 6. Copy of Hon'ble High Court orders in WP No.1158/2002.
- DLSC submitted its findings dated 4.10.2016 that Sri M.Gopala Krishna Murthy had not submitted any proof/evidences about his family or his ancestors hailing from agency tracts of Visakhapatnam, Srikakulam, Vijayanagaram, East Godavari and West Godavari Districts and also not produced any proof about their migration from the agency tracts. Further his family hailed from Chintaparthi of Vayalpad Revenue Mandal of Chittoor district which is not covered in Agency Tracts as notified under SC & ST Modification Order, 1956. Moreover, he had not produced any evidence about the customs performed as ST Valmiki. The DLSC opined that the documents submitted by him were not tenable and did not support any proof/evidence to claim that he belongs to ST Valmiki caste and the Mandal Revenue Officer, Secunderabad Mandal had issued the caste certificate without proper verification of exact rule position. Thus, the DLSC opined that ST Valmiki Caste Certificate dated 27.10.1984 issued by Mandal Revenue Officer, Secunderabad Mandal was fraudulently obtained with a mala fide intention for availing reservation benefits. Hence, concluded for cancellation of his caste certificate dated 27.10.1984.
 - A show cause notice dated 05.10.2016 was issued for which he submitted explanation on 31.10.2016, which was not convincing.

2. Aggrieved by the above cancellation orders of the Collector & District Magistrate, Hyderabad in the reference 1st read above, the Appellant Sri M.Gopala Krishna Murthy S/o M.Narayana, Mechanic 'B' (R/R), Hindustan Aeronautic Ltd., Hyderabad Division, Balanagar, Hyderabad has filed the Appeal under Section 7 of the Act 16/1993 before the Government on 23.5.2017 through counsel, stating that:

- He stated that he belongs to ST Valmiki Community. His father and forefathers hail from Chittoor District. His father late Sri Narayana was born on 10.07.1939 in Chittoor District. He was given caste certificate as ST Valmiki, secured a job in Indian Railways under ST reservation group, joined in Secunderabad Division on 23.04.1963, worked for 34½ years and retired on 30.07.1997. He never returned to Chittoor District.
- While his father was working in Secunderabad, he was born on 12.06.1962. On the strength of ST Valmiki Certificate given to his father, he was treated as ST Valmiki and a certificate was issued to him by the Tahsildar, Secunderabad on 27.10.1984. Throughout his education career, he was given ST benefits. After completion of his studies, he registered his name in the employment exchange at Rangareddy District which sponsored his appointment in Hindustan Aeronautic Ltd., against ST quota. He was appointed as Mechanic B (Radio/Radar) by order dated 13.10.1984.
- At the instance of Hindustan Aeronautic Ltd., to verify genuineness of his caste ST/Valmiki certificate, he was asked to produce fresh certificate for verification. On the strength of his father's certificate, he approached the Revenue Divisional Officer, Chevella and after due verification, the Revenue Divisional Officer, Chevella issued caste certificate that he belongs to ST Valmiki community.

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- The Hindustan Aeronautic Ltd., authorities had got the certificate verified by the then District Collector, Rangareddy District and got satisfied. Surprisingly, the issue of his caste certificate came up again.
- The Tribal Welfare Department has not considered the fact that his father was treated as ST prior to 1956 and the ST status was continued throughout his life till he retired on 30.7.1997. On the strength of his father's caste Valmiki as ST, he was also given ST status. Now basing on the erroneous clarification given by the Tribal Welfare authorities, the District Collector, Hyderabad conducted an enquiry and vide proceedings No.C1/4220/2015, dated 24.4.2017, has cancelled his caste certificate i.e. (Valmiki) ST. This act of district Collector, Hyderabad, is unconstitutional, arbitrary and ultra vires and bad in law on the basis of following grounds:
 - i) His father Mesas Narayana was given ST certificate prior to 1956 treating Valmiki group as ST and the modification done by the Government under the Act 16 of 1956 do not attract to him and his family members. This matter has to be settled basing on the position prior to 1956 in Chittoor District. But, the District Collector, Hyderabad never tried to verify the position before 1956, hence the proceedings are arbitrary and bad in law.
 - ii) District Level Scrutiny Committee, Hyderabad never tried to know the position in Chittoor District prior to 1956, hence the proceedings issued by District Collector, Hyderabad is not valid.
 - iii) The Collector & District Magistrate, Hyderabad has stated that since the appellant has not produced any evidence about the customs performed as ST Valmiki. This opinion is not tenable. His father late Sri M.Narayana migrated from Chittoor District immediately when he got an appointment in Indian Railways and settled in Secunderabad. He was born and brought up at Secunderabad. There was no occasion for his father to visit Chittoor and to observe his customs. Hence, this objection is not justified.
 - iv) He has completed 34 years of service in the organization. Hence, cancellation of his caste certificate ST/Valmiki is untenable. Having accepted the appellant as ST/Valmiki and after putting long standing service in the company, now requesting the District Collector through letter dated 08.12.2015 for conducting enquiry for the purpose of verifying his caste status is highly unjustified and illegal.
 - v) Even considering the Act 16 of 1956 applicable to him, his caste may be altered as BC-A from ST Valmikis but totally cancelling his caste certificate as ST Valmiki is bad in law. In this connection, it is not out of place to mention that in a like matter Honourable High Court of Judicature at Bombay, Nagpur Bench in WP No.1349/2006 has opined that:

"However the petitioner's appointment shall stand protected. However, it is made clear that the petitioner shall not be entitled to any of the benefits of Scheduled Tribe. It is further made clear that the petitioner appointment should be considered against the post reserved for Specially Backward Class if the petitioner produces a valid certificate within a period of 3 months from today. If the petitioner fails to produce such certificate, his appointment shall be considered against open category." (copy of judgement enclosed).
 - vi) In the same organization, in the case of one Mr.Reddanna of CDP post and in the case of M.V.Ramana, when they faced the same charges, the management has treated them under the Category of BC-A group and they were continued in the service.

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- vii) The District Collector, Hyderabad simply accepted report of the District Level Scrutiny Committee, Hyderabad dated 04.10.2016 and without passing her own cogent reasons, has cancelled the caste certificate stating that the explanation given by the appellant is not satisfactory. The District Collector & Magistrate has not stated any satisfactory reasons as to how the explanation given by the appellant is not satisfactory and simply relied on the report of the District Level Scrutiny Committee which is trying to review the certificate which was ratified earlier even though neither the District Collector nor the Committee has the power of review under the Act, the said exercise cannot be entertained at the instance of HAL authorities. Hence, the proceedings issued by the District Collector, Hyderabad in proceedings No.C1/4220/2016 dated 24.04.2017 is not tenable, arbitrary and unconstitutional and bad in law.

3. In the reference 3rd read above, Government have admitted the appeal petition and requested the District Collector, Hyderabad to furnish the case records along with para-wise remarks to Government.

4. In the reference 4th read above, the Collector & District Magistrate, Hyderabad has furnished the record bearing file No.C1/4220/2015 along with para-wise remarks to Government.

- Appellant has never produced copy of ST certificate issued to his father Sri Mesa Narayana prior to 1956 at any point of time during the enquiry nor submitted any documentary evidence that amendment act 1956 is not applicable to him.
- The act clearly states that Valmiki be treated as Scheduled Tribes only in the agency tracts. They are found in the agency areas of Visakhapatnam, Srikakulam, Vijayanagram, East Godavari and West Godavari Districts. If Valmiki are migrants from agency tracts on plain areas for the purpose of Education, Employment or any other purpose, they should submit the documentary evidences of their ancestors agency tracts evidences like Land Pattas or Community Certificate, Local Agency area certificates.
- The report of the Director, Tribal Welfare clearly states that his father belonged to Valmiki caste of Chittoor District which was declared as BC-A group but not ST. The appellant himself is stating that his father was born on 10.07.1939 and hails from Chittoor District, which is prior to 1956. Hence, the allegation that this respondent never tried to know the position in Chittoor District prior to 1956 is completely denied.
- Further, as per section (6) of GO Ms.No.58, Social Welfare (J) Department, dated 12.05.1997 and subsequently adapted in the State of Telangana vide GO.Ms.No.5, Scheduled Caste Development (POA.A2) Department, dated 8.8.2004, it is the responsibility of the applicant to produce necessary evidence/ documents as called for by the Committee. The appellant has failed to produce any documentary evidence to prove that his family migrated from agency area.
- The averments of the appellant are vague and baseless. Each Scheduled Tribe has its own specific anthropological and ethnological traits, deity, customs, rituals, mode of marriage, death ceremonies etc. Migration of a member of a Scheduled Tribe from one place to another has no bearing on the above aspects of their life. Hence, denied.
- As per section (9) clause (7) of GO Ms.No.58, Social Welfare (J) Department, dated 12.05.1997 and subsequently adapted in the State of Telangana vide GO Ms.No.5, Scheduled Caste Development (POA.A2) Department, dated 8.8.2014, it is ordered that on receipt of finding of DLSC, the District Collector shall then decide whether the certificate is genuine or fraudulent

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and in case of his having obtained a Community, Nativity and Date of Birth Certificate fraudulently, the District Collector shall pass an order cancelling the certificate issued. Accordingly, after due examination of the findings of the Scrutiny Committee, cancellation orders are issued.

- The averment of the appellant that his caste may be altered as BC-A from ST-Valmiki proves his acceptance of not belonging to scheduled Tribe.
- The genealogical & ethnographical grounds of the case are essential among other things for determination of social status. The petitioner herein, has not produced any documentary evidence in support of his claim to be belonging to ST-Valmiki tribe community and instead of producing such proof, he has been repeatedly raising same points which are not tenable.
- The proceedings of cancellation bearing No.C1/4220/2015, dated 24.04.2017 issued by the respondent herein are self-explanatory. The orders were issued duly examining the findings, explanation submitted and material available on record. Hence, the contentions raised by the petitioner are devoid of merits.
- In view of all the facts mentioned above, the appeal petition filed by the petitioner is not tenable and deserves to be dismissed.

5. In the reference 5th read above, notices were issued to the appellant and all other concerned to attend for the hearing on 26.06.2021 and 17.07.2021. Appellant called present. Sri P.V.Ramana, Advocate appeared on behalf of the Appellant filed Vakalat with NOC from Sri N.Sankar Rao, Counsel previously engaged by the Appellant. The Counsel filed written arguments along with citations of various settled legal positions of the Hon'ble Apex Court.

6. The Appellant through his Counsel submitted the following written arguments citing various settled legal propositions of the Hon'ble Apex Court:

- i) On Show Cause Notice dated 5.10.2016 issued from the office of the District Collector accepting the report by indicting provisional decision for cancellation of caste certificate while seeking explanation against the report within 15 days.
- ii) The Constitutional Bench of the Hon'ble Supreme Court of India reported in 1993 Vol.IV SCC page 727 at para 29 the proposition of law laid down is as follows:

"Hence when the enquiry officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the enquiry officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges leveled against him. That right is a part of the employee's right to defend himself against the charges leveled him. A denial of the enquiry officer's report before the disciplinary authority takes its decision on the charges, is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice."

- iii) In the instant case a report of DLSC dated 4.10.2016 enclosed to the Show Cause Notice dated 5.10.2016. In the Show Cause Notice the District Collector taken provisional decision for cancellation of caste certificate based on the report of the DLSC. As per the law laid down by the Hon'ble Supreme Court of India referred above the question of indicating any action based on the report before receiving explanation/objections against the report does not arise. Thereby Show Cause Notice proposing cancelling caste certificate contrary to

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law declared by the Constitutional Bench of the Hon'ble Supreme Court of India referred above. Hence, the Show Cause Notice is void. All the consequential orders including the orders passed by the District Collector dated 24-4-2017 cancelling caste certificate are also goes as per settled law by the Apex Court. The Hon'ble Supreme Court of India in 2011 Vol.V SCC page 142 declared the above proposition of law as follows:

"(32) It is settled legal proposition that if initial action is not in consonance with law, subsequent proceedings would not sanctify the same in such a fact situation, the legal maxim sublato fundamento cadit opus is applicable meaning thereby, in case a foundation is removed, the superstructure falls."

"(32) In Badrinath V Govt. of T.N. this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to ground automatically and this principle of consequential order which is applicable to judicial and quasi-judicial proceedings is equally applicable to administrative orders. (See also State of Kerala V Puthenkavu NSS Karayogam and Kalabharath Advertising V Hemant Vimalnath Narichania)"

- iv) The Hon'ble Supreme Court of India considered the issue for quashing departmental proceedings on the ground of delay in initiating or delaying finalization of departmental proceedings. Inordinate delay is the ground for quashing departmental proceedings. **In (2005) 6 Supreme Court Cases 636 (P.V.Mahadev) and (2006) 5 Supreme Court Cases 58**, the Hon'ble Supreme Court of India considered the issue of delay. The Apex Court quashed the proceedings on the ground of initiation after six years and 10 years. In the instant case as submitted above, the District Collector initiated the proceedings after 33 years after issue of community certificate in the year 1984. The appellant completed almost entire service and going to retire from service on 30.6.2022. Therefore, Appellate Authority can quash the proceedings on the ground of delay keeping in view of the judgements rendered by the Hon'ble Supreme Court of India referred above.
- v) The Hon'ble Supreme Court of India in 2001 SCC Vol.1 page 4 (CB) while considering the issue of cancellation of caste certificate in respect of ST at para 38 declared the law as follows:

"Having regard to passage of time, in the given circumstances, including interim orders passed by this Court in SLP© No.16372 of 1985 and other related affairs, we make it clear that the admissions and appointments that have become final shall remain unaffected by this judgment."

In the above case, ST certificate granted was cancelled, ultimately matter went up to the Supreme Court of India. Intervening events before disposal of the case were taken into account and the Supreme Court of India protected the appointments already made. The Apex Court in another judgment reported in **2012 Vol.1 SCC 549 at para 5,7& 9** laid the law as follows:

"Para (5) Having regard the learned counsel for the Petitioner (s) as well as State of Maharashtra, we are of the view that even if we are to accept the findings of the Caste Scrutiny Committee, as also that of the High Court, we cannot ignore the various circumstances that have intervened between the issuance of the caste certificates and the

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cancellation thereof. In fact, reference was made to the Caste Scrutiny Committee in 2009 ie., nine years after the certificate has been issued, and there is no proper explanation for such delay. On the other hand, the petitioner in the first writ petition has been allowed by the respondents to continue in service and also by virtue of orders passed by the High Court. Similarly, the petitioners in the other two writ petitions have continued their studies after having obtained certain benefits from their caste certificates."

"Para (7) In support of the case of the petitioner(s) an order passed by another Bench of this Court in Swati V State of Maharashtra on 6-9-2010 was brought to our notice, wherein similar circumstances, the Court while dismissing the civil appeal, directed that the benefits that had already been enjoyed by the candidate, and the degree obtained by her in the BDS course, which she had completed, would continue. The Court further directed that she would not be entitled to any further benefits under the caste certificates issued to her and that whatever advantage she may have obtained by way of payment of fees at a reduced rate, were to be made up by her paying the difference."

"Para (9) Accordingly while dismissing all the three special leave petitions, we direct that whatever advantage the three petitioners in the above three special leave petitions may have derived on the basis of their caste certificates shall not deprive them of the benefits which they have already enjoyed. However, we also make it clear that none of the three petitioners in the three respective special leave petitions will be entitled to take any further advantage of reservation in future, either for studies or for employment.:"

- (vi) Since the appellant entered into service on 13-10-1984 cancellation of caste certificate by the orders of the District Collector dated 24-4-2017 after a period of 33 years cannot deny the benefits or advantages already gained based on the caste certificate which includes pension and retirement benefits to the appellant which were accrued to him in view of his service. The Hon'ble Supreme Court of India also declared pension is not a bounty. It is proper right under Article 300 (A) of the Constitution of India. Government is entitled for the pension for the service rendered by him and the same cannot be treated as bounty.
- (vii) The orders of the quasi-judicial authority are to be speaking orders giving reasons. Once the appellant raised objections against report of the District Level Scrutiny Committee, the objections were not at all independently considered by the District Collector. No reasons were assigned in the impugned orders and the said impugned orders are to be declared as illegal.

7. In view of the cancellation of caste certificate by the District Collector under misconception, appellant may not be given benefits of retirement and pension. Therefore, the appellant has prayed the Appellate Authority to quash the orders passed by the District Collector dated 24.4.2017.

8. The Government have examined the Appeal petition and written arguments of the Appellant Sri M.Gopal Krishna Murthy, and with reference to the evidences available on record, as per the Scheduled Castes & Scheduled Tribes Modification Order, 1956, only "Valmikis" living in the Agency Tracts of Andhra Pradesh are only notified as Scheduled Tribes. They are found in the Agency Areas of Visakhapatnam, Srikakulam, Vijayanagaram, East Godavari and West Godavari Districts. If Valmikis are migrants from agency tracts to plain areas for the purpose of Education, Employment or any other purpose, they should submit documentary evidences of their ancestors lived/living in the agency tracts. The Valmikis living in plains are recognized as Backward Class community under BC-A group. Admittedly,

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father of the Appellant hails from Chittoor District but falsely obtained Valmiki ST Caste certificate. On the strength of it, the Appellant (born and brought up in Hyderabad) obtained Valmiki ST Caste Certificate and availed employment opportunity under ST quota in Hindustan Aeronautic Limited. In the Appeal groups, the Appellant himself admitted to alter his caste from ST Valmiki to BC-A as per Act of 1993 which proves acceptance of his not belonging to Scheduled Tribe. Thus, the appeal is found devoid of merits.

9. Therefore, the Appeal filed by Sri M.Gopala Krishna Murthy S/o M.Narayana, Ex-Serviceman, Mechanic 'B' (R/R), Hindustan Aeronautics Limited, Hyderabad Division, Balanagar, Hyderabad is hereby DISMISSED upholding orders of the Collector & District Magistrate, Hyderabad in Proceedings No.C1/4220/2015, dated 24.4.2017.

10. The Collector and District Magistrate, Hyderabad District shall take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

The Collector and District Magistrate, Hyderabad District (By RPAD)
Sri M.Gopala Krishna Murthy S/o M.Narayana, Ex-Serviceman,
Mechanic 'B' (R/R), Hindustan Aeronautics Limited, Hyderabad Division,
Balanagar, Hyderabad (By RPAD)

Copy to:-

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Somajiguda, Hyderabad – 500 082. (Counsel for Petitioner) (By RPAD)
The Tehsildar, Secunderabad Mandal, Hyderabad district.(By RPAD)
(Serve the copy to the appellant)
The Director, TCR&TI, TS, Hyderabad
The P.S. to Minister for ST Welfare
The PS to Secretary to Govt. (TW)
The PA to Special Secretary to Govt.(TW)
SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER.